

RESOLUTIONS 1985-86 SESSION

Resolution No.	Date of Meeting	Title of Resolution	Action	Remarks and/or Committee Referral
85/1	5/3/85	A Resolution to Rename the Faculty Senate Committee on Public Ceremonies	Adopted	Public Ceremonies Committee was renamed "Honors and Academic Convocations" Approved by President 5/85
85/2	5/3/85	A Resolution to Change the Name of the Senate Committee on the Library to the Senate Committee on the Libraries	Adopted	Approved by the President 5/85
85/3	5/3/85	A Resolution of Appreciation (for Norman C. Kramer, Professor of Medicine)	Adopted by acclamation	President's action not required
85/4	5/3/85	A Resolution of Appreciation (for Victor H. Cohn, Professor of Pharmacology)	Adopted by acclamation	President's action not required
85/5	10/11/85	A Resolution to Extend the Special Committee on Senate Self-Study (Governance)	Adopted	Approved by President 10/29/85
85/6	10/11/85	A Resolution to Establish a Special Committee on Report of Commission for the Year 2000	Adopted	Approved by the President 10/29/85
(84/14)*	12/13/85	A Resolution to Amend the University Policy on Academic Dishonesty	Postponed to 1/17/86; adopted, as amended 1/17/86	Approved by the Board 3/20/86
85/7	12/13/85	A Resolution on a Proposed New University Smoking Policy	Postponed to 1/17/86; adopted 1/17/86	Approved by the President 2/6/86, excepting first RESOLVING clause

* - This resolution originated in the 1984-85 Senate Session.

RESOLUTIONS 1985-86 SESSION

Resolution No.	Date of Meeting	Title of Resolution	Action	Remarks and/or Committee Referral
85/8	12/13/85	A Resolution to Amend Article X and Procedures for Implementation of Article X, Paragraph E, of the <u>Faculty Code</u>	Postponed to 2/14/86; adopted, as amended 2/14/86	Approved by the Board 3/20/86
85/9	12/13/85	A Resolution to Amend Article III of the <u>Faculty Code</u> , and the Faculty Handbook (Substitute Resolution)	Postponed to 2/14/86; adopted 2/14/86	Approved by the Board 3/20/86
85/10	1/17/86	A Resolution to Establish a Special Committee on Conflict of Interest Policy (See above Resolutions 84/14 and 85/7 postponed to 1/17/86)	Adopted	Approved by the President 2/18/86
	2/14/86	(See above Resolutions 85/8 and 85/9 postponed to 2/14/86)		
85/11	3/21/86	A Resolution to Implement Faculty Code "Procedures," Section C-5	Adopted, as amended	Awaiting action by the Faculty Assembly
85/12	3/21/86	A Resolution on Summer Sessions Calendar	Postponed to 5/2/86	Referred back to Educational and Admissions Policy Committee <i>(See Manual Book 86-87 also)</i>
85/13	3/21/86	A Resolution on Financial Aid to Students	Adopted 5/2/86 Adopted	Under review by the President
85/14	4/11/86	A Resolution to Restructure and Further Empower the Executive Committee	Adopted, as amended	Awaiting action by the Faculty Assembly
85/15	4/11/86	A Resolution Calling Upon the Administration to Make Periodic Reports to the Faculty on Plans to Implement Recommendations in the Report of the Commission for Year 2000	Adopted, as amended	Under review by the President

RESOLUTIONS 1985-86 SESSION

Resolution No.	Date of Meeting	Title of Resolution	Action	Remarks and/or Committee Referral
85/16	4/11/86	A Resolution to Increase Awareness of Productive Research by the Faculty of the University	Adopted	Under review by the President
85/17	4/11/86	A Resolution to Promote Research Seminars and Colloquia	Adopted, as amended	Approved by the President 5/10/86
85/18	4/11/86	A Resolution Calling for the Creation of Procedures to Develop a Comprehensive Plan for the Future Development of the University	Adopted	Under review by the President
85/19	4/11/86	A Resolution Calling for the Support of the Arts to Enhance the University's Role as a Center for Cultural Activity	Adopted, as amended	Under review by the President
85/20	4/11/86	A Resolution Endorsing the Principles Being Embodied in the Revised University Campus Plan	Adopted, as amended	Approved by the President for the Board of Trustees

A RESOLUTION TO RENAME THE FACULTY SENATE COMMITTEE ON PUBLIC CEREMONIES (85/1)

WHEREAS, the President accepted the Faculty Senate's recommendation that he create a University Committee to plan and execute the University's public events, to be effective Academic Year 1985-86; and

WHEREAS, the former Senate Committee on Public Ceremonies was renamed the Committee on Honors and Academic Convocation (Resolution 84/11);

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the Bylaws of the Faculty Senate, Section 10, Standing Committees, be modified to change the name of the Committee on Public Ceremonies to the Committee on Honors and Academic Convocations.

Committee on Honors and Academic Convocations
(formerly the Committee on Public Ceremonies)
April 19, 1985

Adopted May 3, 1985

A RESOLUTION TO CHANGE THE NAME OF THE SENATE COMMITTEE ON THE LIBRARY TO THE SENATE COMMITTEE ON THE LIBRARIES (85/2)

WHEREAS, The University community is served by three libraries -- the Jacob Burns Law Library, the Melvin Gelman Library, and the Himmelfarb Health Sciences Library; and

WHEREAS, the Senate Library Committee has equal commitment to the smooth functioning of all three libraries; and

WHEREAS, the present name of the Senate Library Committee may suggest that its work is germane only to Gelman, the general University library; THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

- (1) That the Senate Library Committee henceforth be known as the Senate Committee on the Libraries; and
- (2) That the Bylaws of the Faculty Senate, Section 10, Standing Committees, be modified to change the name of the Committee on the Library to the Committee on the Libraries.

Senate Library Committee
January 24, 1985

Adopted May 3, 1985

A RESOLUTION OF APPRECIATION (85/3)

WHEREAS, Norman Clifford Kramer has earned the respect, gratitude and affection of all parts of The George Washington University community; and

WHEREAS, as Professor Emeritus of Medicine, he will be leaving the Faculty Senate; therefore

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the following citation be issued:

In recognition of his many contributions to humanity and The George Washington University during twenty-five years of faithful faculty service to his patients, students, and colleagues as Instructor, Assistant Professor, Associate Professor, and Professor of Medicine in The George Washington University Medical Center;

In recognition of his stature in medical research and teaching, his compassionate care of patients in the new era of end-stage renal disease, and his devotion to academic principles in support of this University;

In recognition of his unselfish service to this University and its teaching hospitals in the special fields of immunology, tissue typing, dialysis, and transplantation in renal disease;

Especially in recognition of his valuable services to the faculty during eleven years of membership on the Faculty Senate, including three years as a member of its Executive Committee, and service on its regular standing committees;

Upon the occasion of his leaving the Faculty Senate,

THE FACULTY SENATE

OF

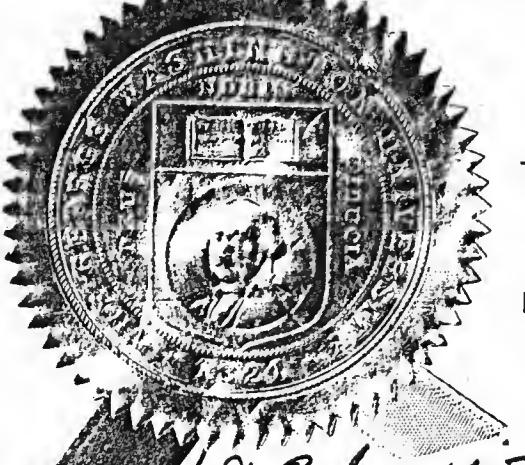
THE GEORGE WASHINGTON UNIVERSITY

CITES

PROFESSOR NORMAN CLIFFORD KRAMER

FOR

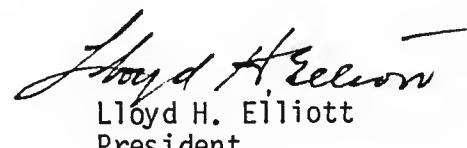
DISTINGUISHED SERVICE



William B. Griffith
Chair, Executive Committee

May 3, 1985

Adopted by acclamation 5/3/85



Lloyd H. Elliott
President

A RESOLUTION OF APPRECIATION (85/4)

WHEREAS, Victor Hugo Cohn is stepping down after long and faithful service to, and dedicated leadership of, the Grievance Committee of the Faculty Senate; and

WHEREAS, he has also contributed valuably in many other areas of professional service; therefore

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the following citation be issued:

In recognition of his many and varied contributions as a member of the University faculty since 1961, as a full Professor since 1971, and of his particular contributions to the Medical Center Faculty Senate, to the Basic Sciences Faculty Assembly which he has served as chairman, and to many important standing committees of the Medical Center;

In recognition of his broad and valuable public service as a consultant on drug abuse, to the White House, to the Montgomery County Public Schools, and the University residential community, an expert standing and commitment to public service aptly recognized by his appointment to the distinguished National Academy of Sciences/National Research Council Board of Toxicology and Environmental Health Hazards;

Especially in recognition of his valuable service to the faculty as a member of the Faculty Senate 1978-80, of the Grievance Committee of the Faculty Senate since its inception in 1977, and in particular for his conscientious and effective chairmanship of the Grievance Committee since 1982, during a period of heightened tension and testing for this important component of faculty self-governance;

Upon the occasion of his leaving the Grievance Committee,

THE FACULTY SENATE

OF

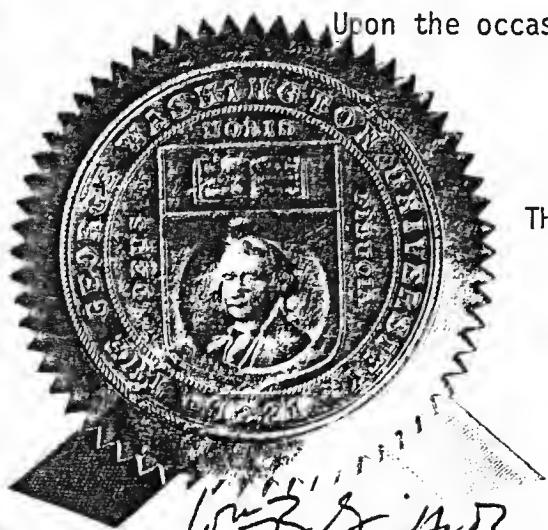
THE GEORGE WASHINGTON UNIVERSITY

CITES

PROFESSOR VICTOR HUGO COHN

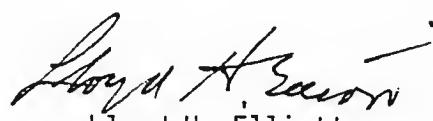
FOR

DISTINGUISHED SERVICE


William B. Griffith
Chair, Executive Committee

May 3, 1985

Adopted by acclamation 5/3/85


Lloyd H. Elliott
President

A RESOLUTION TO EXTEND THE SPECIAL COMMITTEE ON SENATE
SELF-STUDY (GOVERNANCE) (85/5)

WHEREAS, The Special Committee has requested an additional period of time to solicit responses to its Preliminary Report and to prepare formal resolutions;
NOW, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the Special Committee on Senate Self-Study (Governance) established by Senate Resolution 84/9 to report its findings by October, 1985, be continued to the end of the 1985-86 Senate Session (April, 1986).

Executive Committee of the Faculty Senate
September 30, 1985

Adopted October 11, 1985

A RESOLUTION TO ESTABLISH A SPECIAL COMMITTEE
ON REPORT OF COMMISSION FOR THE YEAR 2000 (85/6)

WHEREAS, the several standing committees of the Senate have been asked to examine the various recommendations of the Report of the Commission for the Year 2000, but a need will still exist to examine the Report as a whole and to inform the Senate of the response of the faculties of the College and the various schools; NOW, THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That a Special Committee be elected from the membership of the Faculty Senate, to be charged as follows:

- (1) To study and evaluate the Report in its entirety, examining the recommendations as a whole and considering whether other recommendations are needed, and whether particular structures or procedures should be considered to ensure faculty involvement in further developing or implementing the Report; and
- (2) To serve as a vehicle for soliciting informed faculty response from each school; and
- (3) To report on these matters to the Faculty Senate at its meeting of January 17, 1985, incorporating in its report to the extent practicable the responses generated from the faculties of the several schools.

Executive Committee of the Faculty Senate
October 1, 1985

Adopted October 11, 1985

A RESOLUTION ON A PROPOSED NEW UNIVERSITY SMOKING POLICY (85/7)

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That the proposed University Smoking Policy be approved with the following amendments:

(1) Section III. EXCEPTIONS, Paragraph C. Residence Halls be amended as follows:

(underlining and dashes indicate amendments)

The Office of Housing and Residence Life attempts to assign students to rooms according to smoking preferences. Therefore, Smoking is permitted in residence hall rooms, if all room residents agree. However, smokers must be aware of, and make necessary adjustments to, situations in which smoke may have an unfavorable effect on roommates. in the absence of agreement between students sharing a room, smoking will be prohibited.

(2) Section V. SIGNS be amended as follows:

(underlining indicates amendments)

It is the intent of this policy statement that smoking will be prohibited in all public areas except those areas where smoking is specifically permitted. Such areas will be selected by the Physical Plant Department in coordination with all department heads concerned and with the Safety Department, and signs will be installed as appropriate. Areas selected should have proper ventilation and should not create a noise problem adjacent to classrooms from smokers congregated there. Desk top, tent-type signs reading "Thank You for not Smoking" and "Smoking Permitted in this Area" are available from University Stores in the Support Building for a small charge. Departments are encouraged to obtain and use them as appropriate.

The Committee on Administrative Matters as They Affect the Faculty

November 22, 1985

Adopted January 17, 1986

PROPOSED POLICY

THE GEORGE WASHINGTON UNIVERSITY

SMOKING POLICY

I. GENERAL STATEMENT

Recognizing that the inhalation of tobacco smoke is hazardous to health, the University is taking positive steps toward providing a more smoke-free environment for students, faculty, and staff.

This policy will become effective on January 1, 1986. The University will sponsor on-going programs which are intended to foster an understanding of the policy and to encourage compliance.

The medical staff have adopted policies governing smoking in the University hospital. These policies are incorporated herein by reference.

II. GENERAL POLICY

Smoking is prohibited in all University buildings and facilities except in areas which are specifically designated as "Smoking Permitted." Other exceptions to this general policy are enumerated in Section III.

III. EXCEPTIONS

- A. Investment Properties are not covered by this policy.
- B. Offices

Private offices - Smoking may be permitted in private offices. Nonetheless, smokers must be aware of, and make necessary adjustments to, situations in which their smoking may have an adverse effect on persons occupying adjacent areas or on visiting non-smokers.

Shared offices - In offices shared by two or more individuals, any of whom are non-smokers, smoking is prohibited unless the non-smokers specifically agree to permit smoking.
- C. Residence Halls - The Office of Housing and Residence Life attempts to assign students to rooms according to smoking preferences. Therefore, smoking is permitted in residence hall rooms. However, smokers must be aware of, and make necessary adjustments to, situations in which smoke may have an unfavorable effect on roommates.

IV. APPLICABILITY

All George Washington University faculty, staff, students, and visitors are required to comply with this policy. Visitors will be informed of this policy by University personnel.

V. SIGNS

It is the intent of this policy statement that smoking will be prohibited in all public areas except those areas where smoking is specifically permitted. Such areas will be selected by the Physical Plant Department in coordination with the Safety Department, and signs will be installed as appropriate.

Desk top, tent type signs reading "Thank you for not Smoking" and "Smoking Permitted in this Area" are available from University stores in the Support Building for a small charge. Departments are encouraged to obtain and use them as appropriate.

VI. RESPONSIBILITY

The Provost has overall responsibility for implementing this policy. Officers, chairs, and managers are responsible for implementing this policy in their units and shall inform students, faculty, and administrative and staff employees under their jurisdictions of the provisions of this policy by making copies available and by other means.

Questions about this policy or its implementation may be referred to the Provost, the appropriate Vice President, the Dean for Administrative Affairs of the Medical Center, the Director of Personnel or Directors of Safety.

Office of the Provost
September, 1985

A RESOLUTION TO AMEND ARTICLE X AND PROCEDURES
FOR IMPLEMENTATION OF ARTICLE X, PARAGRAPH E, OF
THE FACULTY CODE (85/8)

WHEREAS, the University Administration has taken exception to Senate Resolutions 84/4 and 84/5, both of which proposed amendments to Article X of the Faculty Code intended:

- (1) "to clarify the language of the Faculty Code as to what violations of rights and responsibilities may give rise to grievances," and
- (2) "to provide an alternative method of dispute resolution by arbitration;" and

WHEREAS, the Committee on Professional Ethics and Academic Freedom has considered the Administration's objections and suggestions for modification and/or deletion of language contained in Resolutions 84/4 and 84/5;
THEREFORE

BE IT RESOLVED BY THE FACULTY SENATE OF THE GEORGE WASHINGTON UNIVERSITY

That Article X and Procedures for Implementation of Article X, Paragraph E, of the Faculty Code, as amended by Senate Resolutions 84/4 and 84/5, be further amended as follows:

(Note: The earlier amended language appears in the right-hand column; the further amendments proposed by the Professional Ethics and Academic Freedom Committee appear in the left-hand column.)

Committee on Professional Ethics and Academic Freedom

December 13, 1985

Adopted, as amended, February 14, 1986

FACULTY CODE

X. RIGHTS, PRIVILEGES AND RESOLUTION OF DISPUTES
UNDER THIS CODEA. Rights and Privileges Under This Code

delete

The rights, privileges, and responsibilities of a faculty member conferred by this Code or by governing principles of law shall be carefully safeguarded in accordance with the highest accepted principles, practices, and procedures of the academic community. An alleged infringement of such rights or privileges or an alleged violation of such responsibilities or-a-charge-of-enfais or-discriminatory-treatment-based-on-race, color, religion, sex, national origin or other considerations prohibited by law with regard-to-conditions-of-employment, shall first be considered by the faculty member or members concerned, or by appropriate representatives of the faculty, in cooperation with the responsible administrative officers. If such consideration does not lead to an adjustment satisfactory to the parties involved, the procedures for the implementation of this Article shall be fully utilized.

Grievances

To maintain a grievance, the complaining party must allege that he/she has suffered a substantial injury resulting from a violation of professional rights or privileges concerning academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, arising from:

- 1) acts of discrimination prohibited by Federal or local law;
- 2) failure to follow the Faculty Code and Handbook and other rules, regulations and procedures established by the University;
- 3) arbitrary and capricious University actions; or arbitrary and capricious applications of Federal or local statutes and regulations; or
- 4) University action motivated by prejudicial malice or retaliation for exercise of Code-protected rights.

B. Grievable or Arbitrable Issues1. Grievances

To maintain a grievance, the complaining party must allege either:

- a) a violation of professional rights or privileges concerning such matters as academic freedom, tenure, promotion, reappointment, dismissal, or sabbatical or other leave, such as may arise from:
 - 1) violation of law;
 - 2) unfair procedure or failure to follow established procedures;
 - 3) University action motivated by prejudicial malice or retaliation for exercise of protected rights; or
 - 4) University action without a reasoned basis in fact or University records;
- or b) serious misconduct by a faculty member or significant neglect of a faculty member's responsibilities, in which case a complaint may be brought by regular active status faculty.

delete

2. Arbitration

To maintain an arbitrable complaint over administrative actions or practices, the complaining party must allege a substantial injury affecting professional status or activities, such as teaching assignments, salary, assignment of office space or other support of professional activities. The complaint must have a basis in contract, or academic tradition, or local custom.

3. Jurisdiction in Mixed Complaints

If a grievance is properly alleged, the Dispute Resolution Committee shall have jurisdiction over all related administrative matters that would otherwise be resolved by arbitration.

3. Formal Proceedings

a) Commencement of Proceedings

- 1) If the preliminary proceedings do not result in a mutually satisfactory resolution of the dispute, any party to the dispute may commence formal proceedings by means of a complaint addressed to the Chairman of the Grievance Dispute Resolution Committee, with copies sent to the Chairman of the Executive Committee of the Faculty Senate and the other party or parties.
- 2) The complaint shall set forth with particularity the nature of the dispute, specifying the rights or responsibilities under the Faculty Code alleged to have been violated, the specific act or acts alleged to constitute the violation or to have inflicted the injury, the identity of the remedy sought, and the reasons alleged to justify the remedy. No grievance or arbitration may be maintained on the basis of error which did not affect the substantial rights of the complainant.
- 3) Within twenty calendar days of the receipt of the complaint, the other party or parties to the dispute shall reply in writing, sending copies of the reply to the Chairman of the Grievance Dispute Resolution Committee, the Chairman of the Executive Committee of the Faculty Senate, and the complaining party or parties. -4) The reply shall set forth with particularity the position of the replying party or parties with respect to each allegation of the complaint.

b) Hearing Committee and Hearing Officer

1)

delete

Upon receipt of the complaint and reply, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate, consider whether the matter in dispute is suitable for arbitration and if he finds it so, shall facilitate offer arbitration to the parties. AGREEMENT/TO/ARBITRATION/BIAS/THE/PARTIES/TO/ACCEPT THE/ARBITRATOR/S/award//If/the/parties/agree//the Chairman/of/the/Dispute/Resolution/Committee/shall/mediate/the/arbitration//process/as/specified/below. If/the/mediator/in/dispute/is/not/suited/for arbitration/or/the/parties/so/to/agree/on arbitration/the/Chairman/of/the/Dispute/Resolution Committee/shall/appoint/a/Hearing/Committee/and/Hearing Officer/as/provided/below/to/consider/whether/a grievance/may/be/mainained/

3. Formal Proceedings

delete

a) Commencement of Proceedings /cont./

Add new section:

5) Arbitration shall not be initiated unless all parties to the dispute agree to arbitration. Where a dispute contains issues that are arbitrable only and issues that are grievable, the parties may agree to sever the issues which are arbitrable only and arbitrate only those issues. If the parties agree to arbitration, the Chairman of the Dispute Resolution Committee shall initiate the arbitration process as specified below. If the matter in dispute is not suitable for arbitration or the parties fail to agree on arbitration, the Chairman of the Dispute Resolution Committee shall appoint a Hearing Committee and a Hearing Officer as provided below to consider whether a grievance may be maintained.

E. PROCEDURES FOR IMPLEMENTATION

3. Formal Proceedings

b) Arbitration

1. Upon mutual agreement to arbitration, an arbitrator shall be picked/ designated by the Chairman of the Dispute Resolution Committee, in consultation with the Executive Committee, from a panel of University faculty who/are qualified to be selected on the basis of their experience and training. The complainant Any party may make one preemtory challenge to the arbitrator appointed. Any party may also challenge for cause the arbitrator appointed, in which case the Dispute Resolution Committee shall review the challenge, and if it is found justified, the Chairman shall appoint another arbitrator.

2) The Arbitrator shall request expeditiously that the parties concerned submit documents and other information enabling the arbitrator to determine that an arbitrable dispute exists. This initial activity may include interviewing the parties. If the arbitrator finds that the dispute is not an arbitrable one under Article X.B.2.1 of the Code, he shall return the dispute to the Dispute Resolution Committee for disposition. Otherwise a time for hearing shall be set as soon as all parties can appear.

3) The arbitration hearing is less formal than that for resolving grievances, and emphasis shall be on a complete and fair presentation of the issues. The parties shall have access to all documents submitted to the arbitrator, except documents pertaining to individual salary. The arbitrator may question witnesses and otherwise assist the parties to present the information needed to make an informed decision. Each party may make a closing statement after all testimony has been presented.

Add new section:

4) The task of the arbitrator is not to substitute his/her judgment for that of the makers of the decision which is being challenged unless he/she finds that a substantial injury has resulted from an arbitrary and capricious action.

DELETE

E. PROCEDURES

3. Formal Proceedings

b) Arbitration /cont./

DELETE

a) 5) The award and a written reason for the decision shall be prepared by the arbitrator within 60 days from conclusion of the hearing. A copy shall be sent to the faculty member, an other parties to the dispute, and the Dispute Resolution Committee. The award is binding on the parties, including the University, should it be a party.

b) c) Hearing Committee and Hearing Officer

If the issue in dispute is not suitable for arbitration or the parties fail to agree to binding arbitration, the Chairman of the Dispute Resolution Committee shall, with the advice of the Executive Committee of the Faculty Senate, appoint a Hearing Committee

of three members from among the members of the Dispute Resolution Committee, and a presiding Hearing Officer from a panel of names previously approved by the Executive Committee. The Hearing Officers shall be chosen from among University personnel of appropriate experience and training, but need not be attorneys. The role of the Hearing Officer throughout these procedures is to assure an orderly, expeditious, and relevant hearing; to assure the development of a complete, fair and reliable record; and to advise the Hearing Committee as to issues of substance and procedure. The Hearing Committee may request the replacement of the Hearing Officer at any time.

(Delete rest of original section.)

2) No member of the same department as a party shall sit on the Hearing Committee. Any party to a dispute may disqualify one member of the Hearing Committee by preemptory challenge. Any party may also seek to disqualify any member of the Hearing Committee for cause. The Dispute Resolution Committee shall hear and decide any challenges for cause. The Chairman of the Dispute Resolution Committee shall, from among the remaining members of the Dispute Resolution Committee, fill any vacancies on the Hearing Committee created by challenges.

(pick up from b) 1) on page 2)

b) ~~b)~~ Hearing Committee and
Hearing Officer /cont./

3) When all challenges have been decided and vacancies filled, and as soon as reasonably possible after receipt of respondent's reply, the Chairman of the Dispute Resolution Committee shall convene the Hearing Committee to review the Complaint. If a ~~defendant moves to dismiss and the Chairman of the Dispute Resolution Committee and the members of the Hearing Committee~~ majority of the Hearing Committee,

after an opportunity for informal argument by the parties, finds that the complaint does not allege facts sufficient to state a grievance under the Code or that the complaint is based upon evidence or allegations which are substantially the same as those that have been previously heard and decided, or which could have been presented in a previous hearing, ~~or that the complaint raises, in whole or in part, issues that are arbitrary only, the~~

delete —

~~complaint shall be automatically referred to the Dispute Resolution Committee for consideration at the earliest reasonable time. If ten members a majority of the Dispute Resolution Committee (including the Chairman and the members of the Hearing Committee) concludes that for any of the reasons set out in this section a hearing is not warranted, the complaint shall be dismissed, in whole or in part, and the matters dismissed deemed closed:~~

Add new section:

4) On the determination that a hearing is warranted, the Hearing Committee shall be convened by the presiding Hearing Officer and establish a schedule for the hearing.

4) 5) No change

Add new section:

6) It shall be the duty of the Hearing Officer to convene promptly the meetings of the Hearing Committee and to preside; to assure the expeditious disposition of the case; to rule on all questions of substance or procedure necessary to the conduct of the hearing, subject to being overridden by a majority vote of the Hearing Committee; to ask questions and to control the development of testimony and or evidence in the record as deemed appropriate; to prepare a draft opinion for the use of the Hearing Committee; and to advise the Hearing Committee in its deliberations on questions of substance and procedure. The Hearing Officer does not vote on the ultimate questions of substance, procedure, or policy, as

b) E. PROCEDURES FOR IMPLEMENTATION

3. Formal Procedures

b) a) Hearing Committee and Hearing Officer
/cont./

these are acted upon by the Hearing Committee. The Hearing Officer signs dispositive orders of the Hearing Committee only to authenticate them.

Add new section:

7) Members of hearing committees, members of the Dispute Resolution Committee, and the parties shall avoid ex parte communications bearing on the substance of the dispute.

3. Formal Proceedings

c)

e) ~~d)~~ Procedure for Hearings

1) No change

2) A grievance procedure is not a formal judicial proceeding. Its purpose is to provide a fair evaluation of the allegation that a right or a responsibility has been violated. [In order to

privilege

In order to achieve that end, the Hearing Committee shall have authority to call any material witness who is

The University will make a reasonable effort to facilitate the appearance of witnesses.

achieve that end, the Hearing Committee shall have authority to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and also any other person who is willing to testify; to question parties and witnesses; to exclude matters it deems irrelevant; and to place reasonable limits on arguments, the presentation of evidence, and the questioning of witnesses by the parties.

3) The procedure at the hearings shall be informal, but shall comply with the requirements of fairness to the parties. The Hearing Committee is not required to comply with rules of evidence applicable in courts of law and may receive any relevant evidence which is not privileged. The Hearing Committee may decline to consider evidence where its probative value is outweighed by considerations of unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. The parties

The parties shall be entitled to testify on their own behalf, to call as material witnesses any member of the University faculty, administration, or staff, and to call any other person who

shall be entitled to testify on their own behalf, to require the appearance of any material witness who is a member of the University faculty, administration, or staff, and to call any other person who is willing to testify; to present written and other tangible evidence, and to cross-examine witnesses called by other parties. Sworn depositions may be received in evidence at the discretion of the Hearing Committee. A party shall be entitled to inspect and copy in advance of the hearing, any relevant documents in the control of the other party and not privileged, and may offer such documents or excerpts therefrom in evidence.

The University will make a reasonable effort to facilitate the appearance of witnesses.

3. Formal Proceedings

c)

ef d) Procedure for Hearings /cont./

4) No change

5) No change

6) No change

7) At the conclusion of the presentation of evidence and argument from both sides the Committee shall deliberate and reach a decision in closed session. In rendering its decision the Hearing Committee shall not substitute its judgment for that of the maker of the decision being challenged but rather it shall determine whether the grievant has established ~~by~~ clear and convincing evidence that he/she has suffered a substantial injury resulting from: 1) acts of discrimination prohibited by Federal or local law; 2) the decision-maker's failure to follow the Faculty Code, or Faculty Handbook, or other rules, regulations and procedures established by the University; 3) arbitrary and capricious University actions; or arbitrary and capricious applications of Federal or local statutes and regulations; or 4) University action motivated by prejudicial malice or retaliation for exercise of Code-protected rights.

7) ~~Within ten calendar days~~ The Hearing Committee: Committee shall render its findings and recommendations in a written report which shall state the number of members subscribing to the report and shall include dissenting opinions, if any. This report shall be submitted to the Chairman of the Executive Committee of the Faculty Senate and copies shall be transmitted to the parties and to the Chairman of the Dispute Resolution Committee.

Add new section:

9) The hearing procedures shall be concluded and the Hearing Committee's decision shall be rendered as soon as practicable.